

The House Committee on Ways and Means offers the following substitute to HB1094:

A BILL TO BE ENTITLED
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for the comprehensive revision of the excise tax on rooms, lodgings, and accommodations; to change certain provisions regarding sale and use tax limitations in connection therewith; to provide for definitions; to provide for procedures, conditions, and limitations for the imposition, collection, and expenditure of proceeds of the tax; to provide for powers, duties, and authority of county and municipal governing authorities; to provide for powers, duties, and authority of the state revenue commissioner; to change the membership of the Hotel Motel Tax Performance Review Board; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising subsection (c.1) of Code Section 48-8-6, relating to the ceiling on local sales and use taxes, as follows:

"(c.1) Where the exception specified in paragraph (2) of subsection (b) of this Code section applies, on and after July 1, ~~2007~~ 2008, the aggregate amount of all excise taxes imposed under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall not exceed ~~14~~ 15 percent."

SECTION 2.

Said title is further amended by revising subsection (d) of Code Section 48-8-201, relating to an intergovernmental contract for distribution of proceeds of the water and sewer projects and costs tax, as follows:

"(d) On and after July 1, ~~2007~~ 2008, the aggregate amount of all excise taxes imposed under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall not exceed ~~14~~ 15 percent."

H. B. 1094 (SUB)

SECTION 3.

Said title is further amended by revising Code Section 48-13-50.2, relating to definitions regarding the excise tax on rooms, lodgings, and accommodations, as follows:

"48-13-50.2.

As used in this article, the term:

(1) 'Destination marketing organization' means a private sector nonprofit organization or other private entity which is exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986 that is supported by the tax under this article, government budget allocations, private membership, or any combination thereof and the primary responsibilities of which are to encourage travelers to visit their destinations, encourage meetings and expositions in the area, and provide visitor assistance and support as needed.

~~(1)~~(2) 'Innkeeper' means any person who is subject to taxation under this article for the furnishing for value to the public any rooms, lodgings, or accommodations.

(3) 'Private sector nonprofit organization' means a destination marketing organization; provided, however, that a county or municipality which has prior to April 1, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501(c) of the Internal Revenue Code other than Section 501(c)(6) may continue to contract for required expenditures with such a private group.

~~(2)~~(4) 'Promoting tourism, conventions, and trade shows' means planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows.

(5) 'State authority' means an authority created by state law which serves a state-wide function, including, but not limited to, the Geo. L. Smith II Georgia World Congress Center Authority, but shall not mean an authority created for support of a local government or a local purpose or function and shall not include authorities such as area planning and development commissions and any organizational entities they may create, regional development centers and any organizational entities they may create, or local water and sewer authorities.

(6) 'Tourism product development' means the expenditure of funds for the creation or expansion of physical attractions which are available and open to the public and which improve destination appeal to visitors, support visitors' experience, and are used by visitors. Such expenditures may include capital costs and operating expenses. Tourism product development may include:

(A) Lodging for the public for no longer than 30 consecutive days to the same customer;

- 1 (B) Overnight or short-term sites for recreational vehicles, trailers, campers, or tents;
- 2 (C) Meeting, convention, exhibit, and public assembly facilities;
- 3 (D) Sports stadiums, arenas, and complexes;
- 4 (E) Golf courses associated with a resort development that are open to the general
- 5 public on a contract or fee basis;
- 6 (F) Racing facilities, including dragstrips, motorcycle racetracks, and auto or stock car
- 7 racetracks or speedways;
- 8 (G) Amusement centers, amusement parks, theme parks, or amusement piers;
- 9 (H) Hunting preserves, trapping preserves, or fishing preserves or lakes;
- 10 (I) Visitor information and welcome centers;
- 11 (J) Wayfinding signage;
- 12 (K) Permanent, nonmigrating carnivals or fairs;
- 13 (L) Airplanes, helicopters, buses, vans, or boats for excursions or sightseeing;
- 14 (M) Boat rentals, boat party fishing services, rowboat or canoe rentals, horse shows,
- 15 natural wonder attractions, picnic grounds, river-rafting services, scenic railroads for
- 16 amusement, aerial tramways, rodeos, water slides, or wave pools;
- 17 (N) Museums, planetariums, art galleries, botanical gardens, aquariums, or zoological
- 18 gardens;
- 19 (O) Parks, trails, and other recreational facilities; or
- 20 (P) Performing arts facilities."

21 **SECTION 4.**

22 Said title is further amended in Code Section 48-13-51, relating to county and municipal
 23 levies on public accommodations charges for the promotion of tourism, conventions, and
 24 trade shows, by revising subparagraph (a)(1)(C) as follows:

25 ~~"(C)(i) The tax authorized by this Code section shall not apply to charges made for~~
 26 ~~any rooms, lodgings, or accommodations provided to any persons who certify that~~
 27 ~~they are staying in such room, lodging, or accommodation as a result of the~~
 28 ~~destruction of their home or residence by fire or other casualty. The tax authorized~~
 29 ~~by this Code section shall apply to the fees or charges for any rooms, lodgings, or~~
 30 ~~accommodations during the first ten days of continuous occupancy and shall not apply~~
 31 ~~to charges imposed for any continuous occupancy thereafter. The tax authorized by~~
 32 ~~this Code section shall not apply to charges made for the use of meeting rooms and~~
 33 ~~other such facilities or to any rooms, lodgings, or accommodations provided without~~
 34 ~~charge.~~

35 ~~(ii) The tax authorized by this Code section shall not apply to the charges for any~~
 36 ~~rooms, lodgings, or accommodations furnished for a period of one or more days for~~

~~use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local government official or employee traveling on official business for purposes of the exemption provided by this division Reserved.~~"

SECTION 5.

Said title is further amended in Code Section 48-13-51, relating to county and municipal levies on public accommodations charges for the promotion of tourism, conventions, and trade shows, by revising paragraph (6) of subsection (a) as follows:

~~"(6) At no time shall a county or municipality levy a tax under more than one paragraph of this subsection. Following the termination of a tax under paragraph (2.1), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this subsection, any county or municipality which has levied a tax pursuant to paragraph (2.1), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this subsection shall be authorized to levy a tax in the manner and at the rate authorized by either paragraph (1), paragraph (3), or paragraph (4) of this subsection but shall not thereafter be authorized to again levy a tax under paragraph (2.1), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this subsection~~ levy any future taxes under this Code section in a manner authorized by subsection (b) of this Code section."

SECTION 6.

Said title is further amended in Code Section 48-13-51, relating to county and municipal levies on public accommodations charges for the promotion of tourism, conventions, and trade shows, by revising paragraph (7) of subsection (a) as follows:

~~"(7) As used in this Code section subsection, the term: 'fund'~~
(A) 'Fund and 'funding' ~~shall include~~ means the cost and expense of all things deemed necessary by a state authority for the construction and operation of a multipurpose domed stadium including but not limited to the study, operation, marketing, acquisition, construction, finance, development, extension, enlargement, or improvement of land, waters, property, streets, highways, buildings, structures, equipment, or facilities, and the repayment of any obligation incurred by an authority in connection therewith.

(B) 'Obligation' means ~~The term 'obligation' shall include~~ bonds, notes, or any instrument creating an obligation to pay or reserve moneys incurred prior to January 1, 1991, and having an initial term of not more than 30 years.

(C) 'Multipurpose ~~The term 'multipurpose~~ domed stadium facility' ~~shall mean~~ means a multipurpose domed stadium facility and any associated parking areas or improvements originally owned or operated incident to the ownership or operation of a facility used for convention and trade show purposes by the state, a department or agency of the state, a state authority, or a combination thereof."

SECTION 7.

Said title is further amended in Code Section 48-13-51, relating to county and municipal levies on public accommodations charges for the promotion of tourism, conventions, and trade shows, by revising paragraph (8) of subsection (a) as follows:

~~"(8)(A) For purposes of this Code section, a 'private sector nonprofit organization' shall be a chamber of commerce, a convention and visitors bureau, a regional travel association, or any other private group organized for similar purposes which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986; provided, however, that a county or municipality which has prior to April 1, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501(c) of the Internal Revenue Code other than Section 501(c)(6) may continue to contract for required expenditures with such a private group.~~

~~(B) For purposes of this Code section, 'state authority' shall mean an authority created by state law which serves a state-wide function including, but not limited to, the Geo. L. Smith H Georgia World Congress Center Authority, but shall not mean an authority created for support of a local government or a local purpose or function and shall not include authorities such as area planning and development commissions and any organizational entities they may create, regional development centers and any organizational entities they may create, or local water and sewer authorities~~ Reserved."

SECTION 8.

Said title is further amended in Code Section 48-13-51, relating to county and municipal levies on public accommodations charges for the promotion of tourism, conventions, and trade shows, by revising subparagraph (a)(9)(A) as follows:

~~"(A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), or (5.3) of this subsection shall prior to the imposition of the tax (if the tax~~

1 is imposed on or after July 1, 1990) and prior to each fiscal year thereafter in which the
2 tax is imposed adopt a budget plan specifying how the ~~expenditure requirements of this~~
3 ~~Code section will be met~~ proceeds of the tax shall be expended. Prior to the adoption
4 of such budget plan, the county or municipality shall obtain from the authorized entity
5 with which it proposes to contract to meet the expenditure requirements of this Code
6 section a budget for expenditures to be made by such organization; and such budget
7 shall be made a part of the county or municipal budget plan."

8 SECTION 9.

9 Said title is further amended in Code Section 48-13-51, relating to county and municipal
10 levies on public accommodations charges for the promotion of tourism, conventions, and
11 trade shows, by revising paragraph (11) of subsection (a) as follows:

12 "(11) ~~Nothing in this Code section shall be construed to impair, or authorize or require~~
13 ~~the impairment of, any existing contract or contractual rights~~ Reserved."

14 SECTION 10.

15 Said title is further amended in Code Section 48-13-51, relating to county and municipal
16 levies on public accommodations charges for the promotion of tourism, conventions, and
17 trade shows, by revising paragraph (12) of subsection (a) as follows:

18 "(12) ~~Any action by a local governing authority to impose or change the rate of the tax~~
19 ~~authorized under this Code section shall become effective no sooner than the first day of~~
20 ~~the second month following its adoption by the local governing authority~~ Reserved.

21 SECTION 11.

22 Said title is further amended in Code Section 48-13-51, relating to county and municipal
23 levies on public accommodations charges for the promotion of tourism, conventions, and
24 trade shows, by revising subsection (b) as follows:

25 "(b)(1) Except as provided in paragraphs (2) and (3) of subsection (a) of this Code
26 section, excise taxes levied pursuant to this Code section after July 1, 2008, shall be
27 levied pursuant to this subsection.

28 (2) The governing authority of each municipality in this state may levy an excise tax
29 pursuant to this subsection at a rate not to exceed 8 percent of the charge for the
30 furnishing for value to the public of any room or rooms, lodgings, or accommodations
31 furnished by any person or legal entity licensed by, or required to pay business or
32 occupation taxes to, the municipality for operating a hotel, motel, inn, lodge, tourist
33 camp, tourist cabin, campground, or any other place in which rooms, lodgings, or
34 accommodations are regularly or periodically furnished for value.

1 (3) Within the territorial limits of the special district located within the county, each
2 county in this state may levy an excise tax pursuant to this subsection at a rate not to
3 exceed 8 percent of the charge for the furnishing for value to the public of any room or
4 rooms, lodgings, or accommodations furnished by any person or legal entity licensed by,
5 or required to pay business or occupation taxes to, the county for operating within the
6 special district a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any
7 other place in which rooms, lodgings, or accommodations are regularly or periodically
8 furnished for value.

9 (4) The levy of an excise tax pursuant to this subsection shall be conditioned upon the
10 county or municipality adopting a resolution which specifies the subsequent tax rate,
11 identifies the projects or tourism product development purposes, and specifies the
12 allocation of proceeds and, subsequent to such resolution, the enactment of a local Act
13 by the General Assembly.

14 (5) In accordance with the terms of the resolution adopted by the county or municipality,
15 the local Act of the General Assembly shall provide that:

16 (A) In each fiscal year during which a tax is collected under paragraph (2) or (3) of this
17 subsection, an amount equal to not less than 50 percent of the total amount of taxes
18 collected that exceed the amount of taxes that would be collected at the rate of 5 percent
19 shall be expended for promoting tourism, conventions, and trade shows by the
20 destination marketing organization designated by the county or municipality levying
21 tax; and

22 (B) The remaining amount of taxes collected that exceed the amount of taxes that
23 would be collected at the rate of 5 percent which are not otherwise expended under
24 subparagraph (A) of this paragraph shall be expended for tourism product development.

25 (6) A county or municipality levying a tax pursuant to this subsection shall expend an
26 amount equal to the amount of total taxes collected under this subsection which would
27 have been collected at a rate of 5 percent in accordance with the provisions of paragraph
28 (3) of subsection (a) of this Code section.

29 (c) Nothing in this article shall be construed to impair, or authorize or require the
30 impairment of, any existing contract or contractual rights.

31 (d) At no time shall a county or municipality levy more than one tax under this article.

32 (e)(1) Except as otherwise provided in paragraph (2) of this subsection, for any excise
33 tax levied pursuant to subsection (b) of this Code section, a county or municipality
34 imposing a tax under this article shall, prior to the imposition of the tax or changing the
35 rate of the levy of the tax and prior to each fiscal year thereafter in which the tax is
36 imposed, adopt a budget plan specifying how the proceeds of such tax are to be
37 expended. Prior to the adoption of such budget plan, the county or municipality shall

1 obtain from the destination marketing organization or state authority with which it
2 proposes to contract to meet the expenditure requirements of this paragraph a budget plan
3 for expenditures to be made by such organization. Such destination marketing
4 organization or state authority expenditure budget plan shall be made a part of the county
5 or municipal budget plan.

6 (2) This paragraph shall apply to a county or municipality which is levying the tax under
7 subsection (a) of this Code section on January 1, 2008, and is expending the proceeds of
8 the tax through a contract or contracts with an authorized entity or entities other than a
9 destination marketing organization. In the event such county or municipality ceases such
10 levy in order to levy an excise tax under subsection (b) of this Code section, it may
11 continue to expend the proceeds of the tax through a contract or contracts with the same
12 entity or entities other than a destination marketing organization if, prior to each fiscal
13 year in which the tax is imposed, the county or municipality adopts a budget plan
14 specifying how the proceeds of such tax are to be expended. Prior to the adoption of such
15 budget plan, such county or municipality shall obtain from such entity or entities with
16 which it proposes to contract to meet the expenditure requirements of this paragraph a
17 budget plan for expenditures to be made by such entity or entities. The budget plan of
18 such entity or entities shall be made a part of the county or municipal budget plan.

19 (f) A county or municipality expending funds of the tax levied under subsection (b) of this
20 Code section pursuant to a contract shall require the destination marketing organization or
21 state authority to provide audit verification that such destination marketing organization
22 or state authority makes use of such funds in conformity with the requirements of this
23 subsection. If the audit required by Code Section 36-81-7 identifies noncompliance with
24 the applicable expenditure requirements of this Code section, such noncompliance shall be
25 reported in accordance with paragraph (2) of subsection (c) of Code Section 36-81-7. The
26 state auditor shall report all instances of noncompliance with this subsection noted in the
27 audit report to the Department of Community Affairs upon completion of the report review
28 required by paragraph (2) of subsection (d) of Code Section 36-81-7. The state auditor
29 shall furnish a copy of all documents submitted by the local government or the local
30 government's auditor pertaining to noncompliance with this subsection to the Department
31 of Community Affairs. The Department of Community Affairs shall submit a copy of such
32 documents to the performance review board.

33 (g)(1) Any action by a local governing authority to impose or change the rate of the tax
34 authorized under this article shall become effective no sooner than the first day of the
35 second month following its action by the local governing authority.

36 (2) In the case of a county or municipality which has adopted an ordinance ceasing the
37 levy under the applicable paragraph of subsection (a) of this Code section in order to levy

an excise tax under subsection (b) of this Code section, such levy under subsection (b) of this Code section shall become effective no sooner than the first day of the second month following its action by the local governing authority.

(h) The tax authorized by this article shall not apply to:

(1) Charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty;

(2) The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge;

(3) Any rooms, lodgings, or accommodations furnished for a period of one or more days for use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local government official or employee traveling on official business for purposes of the exemption provided by this paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; or

(4) Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy.

(b)(i) No tax under this article may be levied or collected by a county outside the territorial limits of the special district located within the county.

(j) Any requirement that a tax under this article be expended in the fiscal year in which it is collected shall be satisfied so long as fiscal year expenditures conform with the budget plan required in either paragraph (9) of subsection (a) or subsection (b) of this Code section."

SECTION 12.

Said title is further amended by revising Code Section 48-13-54, relating to collection, remittance, and use of certain funds regarding certain rooms, facilities, or cabins operated under jurisdiction of Department of Natural Resources, as follows:

"48-13-54.

Any state park operated under the jurisdiction of the Department of Natural Resources, or a state authority that is administratively attached to the Department of Natural Resources, which state park or authority regularly furnishes for value lodge rooms as well as meals and

conference or meeting facilities or has a minimum of 20 cabins and which ~~is~~ rooms,
facilities, or cabins located in a county or municipality levying a tax under this article shall,
as provided in this Code section, agree to collect and remit to the county or municipality
within whose taxing jurisdiction the facility is located amounts which are equal to, or
partially equal to, the amounts which would be collected and remitted to the county or
municipality under the tax levied by the county or municipality under Code Section
48-13-51 if ~~the lodges~~ such rooms, facilities, or cabins were privately operated. The sums
so collected and remitted shall only be expended for development, promotion, and
advertising of ~~the lodges~~ such rooms, facilities, or cabins from which the money was
collected and remitted or for similar purposes of promoting, advertising, stimulating, and
developing conventions and tourism in the county or municipality in which ~~the~~ such rooms,
facilities, or cabins of the state park ~~is operated as~~ or state authority are located so long as
said promotion or advertising prominently features the state park ~~facilities or similar~~
~~facilities operated under the jurisdiction of the Department of Natural Resources~~ or state
authority rooms, facilities, or cabins."

SECTION 13.

Said title is further amended by revising subsections (a) and (b) of Code Section 48-13-56.1,
relating to the Hotel Motel Tax Performance Review Board, as follows:

"(a)(1) There is created the Hotel Motel Tax Performance Review Board which shall
consist of 11 members.

(2) The commissioner of community affairs shall appoint five persons to serve as
members of the performance review board as follows:

(A) A designee of the commissioner;

(B) A representative of the private sector tourism industry who shall be an innkeeper;

(C) A representative of municipal government;

(D) A representative of county government; and

(E) A representative of a ~~tourism~~ destination marketing organization.

(3) The Governor shall appoint one member of the board.

(4) The Speaker of the House of Representatives shall appoint one member of the board.

(5) ~~The President Pro Tempore of the Senate~~ Lieutenant Governor shall appoint one
member of the board.

(6) The state auditor shall appoint one member of the board.

(7) The commissioner of economic development shall appoint one member of the board.

(8) The state revenue commissioner shall appoint one member of the board.

(b)(1) ~~The initial members of the board shall be appointed not later than August 1, 2004.~~

The member of the board who is appointed under subparagraph (a)(2)(A) of this Code

1 section shall serve for a term of office of five years. Members of the board who are
2 appointed under subparagraphs (a)(2)(B), (a)(2)(C), (a)(2)(D), and (a)(2)(E) of this Code
3 section shall serve for terms of office of three years each. Members of the board who are
4 appointed under paragraphs (3), (4), and (5) of subsection (a) of this Code section shall
5 serve for terms of office of three years each. Members of the board who are appointed
6 under paragraphs (6), (7), and (8) of subsection (a) of this Code section shall serve for
7 terms of office of five years each. Members of the board shall serve for the terms of
8 office specified in this subsection and until their respective successors are appointed and
9 qualified. Members of the board may be reappointed to the board upon the expiration of
10 their terms of office if they otherwise continue to meet the qualifications for such office.
11 (2) If a vacancy occurs in the membership of the board, the appropriate appointing entity
12 shall appoint a successor for the remainder of the unexpired term and until a successor
13 is appointed and qualified."

14 **SECTION 14.**

15 All laws and parts of laws in conflict with this Act are repealed.